

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 July 2014

Public Authority: Charity Commission
Address: PO Box 1227
Liverpool
L69 3UG

Decision (including any steps ordered)

1. The complainant has requested from the Charity Commission (the "CC") documents in relation to both the inquiry into the Central African Association (the "CAA") and his complaints associated with the inquiry.
2. The CC refused to comply with the request for information on the basis that the request is vexatious in accordance with section 14(1) of the FOIA. It also applied section 12(1) of the FOIA to the request on the grounds that it would exceed the appropriate costs limit.
3. The Commissioner's decision is that the CC had correctly applied section 14(1).
4. The Commissioner requires no steps to be taken.

Background

5. In 2004 the CC opened an inquiry into the CAA on the basis of concerns identified by the Big Lottery Fund relating to grant applications. In 2006 the CC's inquiry was placed on hold to avoid prejudicing criminal investigations and proceedings. On 2 November 2011 the CC completed its investigation and published its inquiry report.
6. Throughout this process and since the conclusion of the inquiry, the complainant has contacted the CC on numerous occasions to request information in relation to both the inquiry and his complaints associated with that.

Request and response

7. On 17 July 2013, the complainant wrote to the CC and requested information in a 25 page letter. He specifically asked the CC to provide under the FOIA and DPA a number of documents that could assist to clarify aspects of the CC's inquiry into the CAA. Due to the volume of requests contained in the letter to the CC, the requested information has not been quoted within this decision notice.
8. The CC identified approximately 65 separate requests for information within this letter. It responded on 12 September 2013. The CC stated that it was not obliged to respond to the request given the provisions of section 14(1) of the FOIA on the grounds that the request was vexatious.
9. Following an internal review the CC wrote to the complainant on 18 October 2013. It upheld its decision on the basis that the request was vexatious in accordance with section 14(1) of the FOIA.
10. On 7 January 2014 the complainant submitted a second complaint to the CC concerning a new issue.

Scope of the case

11. The complainant contacted the Commissioner on 3 February 2014 to complain about the way his request for information had been handled.
12. The scope of this case has been to consider whether the CC was correct to rely on section 14(1) of the FOIA. If the Commissioner finds section 14(1) of the FOIA was incorrectly applied to this case, he will go on to consider section 12(1) of the FOIA.

Reasons for decision

Section 14 – vexatious requests

13. The Commissioner has first considered the application of section 14(1).
14. Section 14(1) of FOIA provides that a public authority is not obliged to comply with an information request that is vexatious.
15. In determining whether a request is vexatious, the ICO believes that the key question which public authorities need to consider is whether complying with the request is likely to cause a disproportionate or

unjustified level of disruption, irritation or distress. Where this is not clear, public authorities should weigh the impact on the authority and balance this against the purpose and value of the request. Where it is relevant, public authorities will need to take into account wider factors such as the background and history of the request.

16. In particular in this case the Commissioner will consider the following indicators:

- Burden on the authority
- Disproportionate effort
- Unreasonable persistence
- Deliberate intention to cause annoyance

17. The threshold for when a request is considered to be vexatious need not be set too high and it is not a requirement for all categories to be relevant to a request. However, where the request falls under only one or two categories or where the arguments sit within a number of categories but are relatively weak, this will affect the weight to be given to a public authority's claim that section 14 of the FOIA is engaged.

18. The CC's arguments as to why it believes the request is vexatious and the Commissioner's observations are outlined below, under the relevant headings.

Burden on the authority

19. The CC explained how the breadth of the request is of a voluminous nature and that the specific requests for information had been difficult to identify. It stated that there are 45 numbered paragraphs but identified approximately 65 separate requests for information contained within the 25 page letter. It added that there was a substantial volume of information brought within the scope of the request.

20. The CC stated that the information requested is similar in nature to previous correspondence which related to the complainant's dissatisfaction with the CC's handling of an inquiry into the CAA. The CC added that it is similar to the complainant's previously requested information in which the CC refused to disclose on the grounds that it is

exempt under the FOIA. This decision was subsequently upheld by the ICO in November 2011.¹

21. The CC argued that it had considered the repeated requests for information to be of a similar nature. However, the CC believed that whatever the outcome of the complainant's requests for information, it would give rise to further correspondence and requests for information. The CC said that the volume of the previous requests and correspondence on the same matter had imposed a significant burden on the CC to date. It added that dealing with this particular request would similarly impose such a burden.
22. The CC provided the Commissioner with a table of correspondence and copies of some earlier letters between the CC and the complainant. The earliest date of a document being December 2004.

Disproportionate effort

23. The CC explained that the request for information is in the context of a long standing grievance with the CC "*over the exercise of its powers.*" It said that the CC considers that it has fully explained its approach and position as far as it is able to do so.
24. The CC argued that the series of requests for information are considered to be disproportionate and the latest request is "*vexatiousness by drift*" (term used by Judge Jacobs in *Wise v Information Commissioner (GiA/1871/2011)*). The CC stated that the complainant had made complaints against the CC, a number of public bodies and individuals involved in a police operation investigating potential fraud which it said led to its inquiry. The CC reiterated its view that the correspondence and repeated requests for information is disproportionate in nature.

Unreasonable persistence

25. At the outset the CC acknowledged the value or serious purpose of the request in terms of the objective public interest in the information, as an important consideration. It explained that the earlier requests for information, in the course of the CC's inquiry, may have had a serious purpose and value. However, it said that the weight attached to that has diminished since the conclusion of the CC's inquiry.

¹ http://ico.org.uk/~media/documents/decisionnotices/2011/fs_50382270.ashx

26. The CC stated that it had deliberated and responded to the complaints made by the complainant. The CC clarified that these were being independently considered by the Parliamentary and Health Service Ombudsman. The CC is of the view that the complainant shows unreasonable persistence in pursuing this matter.

Deliberate intention to cause annoyance

27. The CC later argued that the continued requests lack any serious purpose or value and that the repeated nature of the requests is obsessive. Although the earlier requests may have had a serious purpose and value, during the course of the CC's inquiry it changed its view on this. It further argued that the requests caused annoyance, imposed a burden and are consequently vexatious.
28. The CC stated that there was an element of harassment and/or distress to staff within the CC from the repeated requests and continuous allegations of misconduct in respect of several members of staff. The CC said that these accusations against the CC and its staff are unfounded and it denied the accusations.

Are the requests vexatious?

29. The Commissioner has considered the points made by the CC and its reasoning for finding that the request is vexatious in accordance with section 14(1) of the FOIA. The Commissioner has noted the table of correspondence and the copies of some of the letters between the CC and the complainant.
30. The Commissioner is of the view that the request does not have a serious purpose or value. He acknowledges that the complainant's request is a 25 page letter and contains numerous requests for information (approximately 65 requests). The Commissioner considers this to be a voluminous amount of requests and he notes that they relate to the complainant's dissatisfaction with the CC's handling of an inquiry into the CAA.
31. The Commissioner accepts that the CC has responded to the complainant's previous requests for information and he acknowledges they are in accordance with the provisions of the FOIA. He notes the complainant's behaviour in the correspondence is primarily his disagreement with the outcome of the inquiry into the CAA. The Commissioner notes that this request raises repeated issues which have already been addressed.

32. The documents which evidence the CC's position, clearly shows the complainant's repeated requests even when information was provided to the complainant.
33. The Commissioner notes that the CC had explained the reasons behind the Inquiry and the contents of the inquiry report. He also notes that the CC clarified its position and provided the complainant with the relevant information as much as it could, in respect of the underlying nature of the requests received.
34. The Commissioner acknowledges that the continued requests lack any serious purpose or value. He considers the repeated nature of the requests to be obsessive, designed to cause annoyance and impose a burden on the CC. This shows that the request can reasonably be characterised as vexatious.
35. Taking into consideration all of the above factors, the Commissioner is satisfied that the CC correctly applied section 14(1) of the FOIA in this case. However, the Commissioner has not considered section 12(1).

Right of appeal

36. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

37. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
38. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

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